IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Civil Application No.1185 of 2006
In
Second Appeal St. No.17639 of 2006

Dadasaheb Appalal Mujawar & anr. Applicants
Vs.
Ashama Jalaudding Ghory & ors. Respondents

Mr.P.R.Arjunwadkar for applicants.
Mr.P.D.Pise for resp.no.1.

CORAM: B.H.MARLAPALLE, J.

April 17, 2007.

P.C.

. Heard Mr.Arjunwadkar, the learned counsel for the applicants. Second Appeal under Stamp No.17639 of 2006 has been filed by the applicants but belatedly and, therefore, this application for condonation of delay. As per the office note the delay caused is of 523 days. The respondent no.1 has filed affidavit-in-reply and opposed the application for condonation of delay.

. The learned counsel for the applicant states that applicant no.1 is an aged person and applicant no.2 being a lady it was not possible for themselves to take steps to file the second appeal and, therefore, they appointed a constituted attorney Shri Harun Dadasaheb Mujawar, who is the son of appellant

no.1. The said constituted attorney was ailing as he was suffering from jaundice and, therefore, he could not take timely steps to file the second appeal.

. Though the delay of more than 1 and 1/2 years is not explained satisfactorily, statutory remedy of filing second appeal need not be defeated on this technical ground and, therefore, the delay caused is condoned subject to payment of costs quantified at Rs.1000/- and to be remitted to Maharashtra State Legal Services Authority within two weeks from today. Let the second appeal be listed for admission on 4th June 2007.

(B.H.MARL